whereas the claims in the cited application include no such limitation. While it is true that certain health benefit plans could be governed under the claims of both applications, there are a myriad of other plans that could be covered under one application but not both, as suggested above. Therefore, since the pending claims are not co-extensive in scope with the claims of the cited application, Applicant respectfully requests that the outstanding §101 double patenting rejection be withdrawn.

With regard to priority, Applicant respectfully requests that the Patent and Trademark Office recognize the claimed priority to provisional application 60/493,758, which was filed August 8, 2003. At the time the present application had been filed, no filing receipt had yet been received with regard to that provisional application. However, the application was later preliminarily amended to specifically refer to that provisional application. Therefore, Applicant respectfully requests a corrected filing receipt or some other acknowledgement from the Patent and Trademark Office showing Applicant's claim to the benefit of that provisional application.

Applicant appreciates the indication of acknowledgement of priority to provisional application 60/486,846.

Claims 10-14 stand rejected under 35 USC §101 as being directed to non-statutory subject matter. Applicant respectfully disagrees but has cancelled claims 10-14 rendering that rejections moot.

Claims 1-9 stand rejected under §103(a) over reference U in view of reference V. The rejections of some of the dependent claims also identify other references in addition to references U and V. Applicant respectfully disagrees since reference U neither shows what the office action asserts nor what Applicant has claimed. In particular, the office action asserts that "reference U teaches providing a State-governed fully-insured health insurance policy to a group of employees. . .". Applicant respectfully disagrees. In particular, the cited document nowhere states that self funded plans are State governed. In fact, in the Sixth bullet under the sub-heading "Self-Funding Lowers Costs" the document specifically acknowledges that "self-funded programs are regulated at the federal level." In addition, Applicant's claims are directed to a "fully-insured" product, which is the antithesis of a self funded plan. Thus, the reference teaches a federally governed self-funded plan strategy, whereas Applicant's claims are directed to a state-governed fully-insured plan. Since reference V fails to remedy these defects, Applicant respectfully asserts that a proper prima facie case of obviousness under §103 has not been set

forth. Therefore, Applicants respectfully request that all of the outstanding §103 rejections against claims 1-9 be withdrawn.

Applicant acknowledges that there likely exist some prior art document somewhere that correctly identifies that group health insurance products provided by most employers to cover their employees are federally governed plans. Applicant also acknowledges that is has been known to include supplemental health insurance plans (e.g., AFLAC) that are state-governed and fully insured to provide supplemental insurance to an employee beyond the coverage available under their base federally governed plan. However, only Applicant has recognized through insight that a federally governed plan which prohibits discriminatory action, could be coupled to a state governed fully-insured supplemental insurance plan to provide conditional benefits (discrimination) to employees based upon voluntary participation in a wellness program.

With regard to reference V, Applicant respectfully points out that it identifies itself as being "self-funded insurance" and hence federally governed. Thus, Applicants respectfully point out that neither of the two cited references U or V show or discuss any state-governed fully-insured health insurance product whatsoever. Therefore, Applicants again respectfully request that all of the §103 rejections against claims 1-9 again be withdrawn.

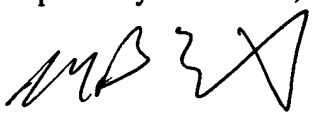
Claims 15-20 stand rejected under 35 USC §103(a) over reference G in view of reference F, with some of the dependent claims also citing other ones of the references of record. Applicant respectfully disagrees since reference G fails to show either what the office action asserts or what Applicant has claimed, and neither reference F nor the other cited references make up for this defeat. There should be no dispute that reference G relates to a system for exchanging health care insurance information between an insurer and health care providers. However, no where does Spurgeon show or discuss processing a claim with respect to a State-governed fully-insured health insurance policy with regard to a conditional benefit for participation in a voluntary wellness program by an insured. Since Spurgeon fails to even contemplate a wellness program, it can not teach processing a claim for a conditional benefit with regard to an employee's voluntary participation in a wellness program as required by Applicant's claims. Therefore, reference G adds nothing to support the rejections against Applicant's claims, and for this reason alone, all of the §103 rejections against claims 15-20 should be withdrawn.

With regard to reference F, while it admittedly contemplates a wellness program, it only teaches the idea of identifying high risk individuals in a group and attempting to reduce claims among those high risk groups in part via the provision of a wellness program. But nowhere does Reference F either teach a State-governed fully-insured health insurance policy nor one in which a conditional benefit under that policy is conditioned upon voluntary participation in a wellness program. Therefore, even when combined, the cited references fail to teach all of the features required by Applicant's claims. Therefore, Applicants respectfully request that the outstanding §103(a) rejections against claims 15-20 be withdrawn.

Applicants note that the web site address identified in PTO-892 with regard to Reference U appears to be inaccurate. Applicant invites the Examiner to issue a corrected form to remedy this discrepancy.

This application is believed to be in condition for allowance of claims 1-9 and 15-20. However, if the Examiner believes that some minor additional clarification would put this application in even better condition for allowance, the Examiner is invited to contact the undersigned attorney at (812) 333-5355 in order to hasten the prosecution of this application.

Respectfully Submitted,



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